

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re the Application of: RUECKER et al. ) Group Art Unit: 1651  
Serial No.: 10/784,148 ) Examiner: Davis, R.  
Filed: February 20, 2004 ) Conf. No.: 5350  
Atty. File No.: 2997-19-1 )  
For: "SOLVENTLESS EXTRACTION  
PROCESS" ) RESPONSE TO RESTRICTION  
REQUIREMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

An Office Action was mailed in the above-captioned application on May 8, 2006. In such Office Action claims 1-4, 8, 10-12, 14, 15, 18-21, 23-25 and 35-37 were pending. Claims 1-4, 8, 10-12, 14, 15, 18-21, 23-25 and 35-37 were subject to restriction and/or election requirement. This Response to Restriction Requirement document is submitted in response to said Office Action.

An election requirement was made to pending claims 1-4, 8, 10-12, 14, 15, 18-21, 23-25 and 35-37. The claims were placed into three groups:

Group I: Claims 1-4, 8, 10-12, 14-15, and 18-19, drawn to a method for obtaining lipids from microorganisms;

Group II: Claim 20-21 and 23-25, drawn to a method for obtaining lipids from microorganisms; and

Group III: Claims 35-37, drawn to a method for obtaining lipids from microorganisms.

Applicants hereby elect to prosecute the claims of Group III, claims 35-37, with traverse.

The Patent Office may require restriction if two or more “independent and distinct” inventions are claimed in one application. However, “if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” M.P.E.P. § 803.

Applicants submit that a thorough search for Group III should also include the subject matter of Groups I and II. In the present case, the subject matter of these groups cited by the Examiner is sufficiently small and so closely related as to be capable of examination together, even though the subject matter of Group I, II, and III relates to distinct and independent inventions. The Restriction Requirement in this case only serves to increase the prosecution expense to the applicants and to the Patent and Trademark Office.

More specifically, with regard to the restriction between Groups I and II, the two independent claims in the respective groups are Claims 1 and 20. The subject matter of steps (a)-(d) of Claim 1 is highly related to the subject matter of steps (c)-(f) in Claim 20. Thus, in effect, Claim 20 simply claims a more narrow embodiment of the generic subject matter of Claim 1. Similarly, steps (c)-(i) of Claim 35 of Group III simply recite a more specific process of the generic process in steps (a)-(d) of Claim 1. Thus, for the Examiner to do a search of the full scope of Claim 35, the subject matter of Groups I and II will necessarily be searched, as well.

For the foregoing reasons, Applicants request that the Examiner reconsider and withdraw the restriction requirement made in the Office Action dated July 16, 2001.

If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned. No fee is believed due with this submission; however, the undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-1970.

Respectfully submitted,

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